IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 20.06.2019

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P.No.7142 of 2019
&
W.M.P.No.7867 of 2019

Kothari Industrial Corporation Limited
Rep. By its Factory Manager
R.Ravindra Reddy
Having its registered office at
Kothari Industrial Corporation Ltd.,
Superphosphate Factory
Katthivakkam Village, Ennore
Chennai - 600 057 ... Petitioner

Vs.

1.The State of Tamil Nadu
Rep. By its Secretary
Municipal Administration and Water Supply Department
Fort St. George
Chennai - 600 009

2.The Commissioner
Greater Chennai Corporation
Ripon Buildings
Chennai - 600 003

3.The Assistant Revenue Officer
Zone-1
Greater Chennai Corporation
New No.276, Old No.934
Thiruvotriyur High Road
Thiruvotriyur
Chennai - 600 019 ... Respondents

Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus calling for the entire records pertaining to the impugned Property Tax General Revision Notice No.8/1/18-19/1184693 dated 14.12.2018 for the 1at half of 2018-2019 issued by the 2nd respondent to the petitioner company at Kothari Industrial Corporation Limited, Superphosphate Factory, Katthivakkam Village, Ennore, Chennai-600 057 in enhancing the property tax from 1,81,690/- to

4,52,540/- and quash the same and consequently direct the respondent Corporation to revise the reduce the property tax considering the objection of the petitioner dated 31.01.2019.

For Petitioner : Ms.P.Bagyalakshmi

For Respondents : Mr.Pratap Singh
Government Advocate for R1
Ms.T.Padma Shalini
for Mr.T.C.Gopalakrishnan
Standing Counsel for R2 and R3

O R D E R

Ms.P.Bagyalakshmi, learned counsel on record for writ petitioner, Mr.Pratap Singh, learned Government Advocate on behalf of first respondent and Ms.T.Padma, learned counsel representing Mr.T.C.Gopalakrishnan, learned Standing Counsel for Chennai Corporation on behalf of respondents 2 and 3 are before this Court.

2.With the consent of all the aforesaid learned counsel, the main writ petition itself is taken up, heard out and is being disposed of.

3.This matter turns on a narrow compass. Subject matter of this writ petition pertains to levy of Property Tax on immovable property in Chennai, part owned by the writ petitioner company. Such levy is under 'Chennai City Municipal Corporation Act, 1919' ('CCMC Act' for brevity).

4.As part of general revision, the second respondent had issued a notice dated 14.12.2018 proposing enhancement of Half Yearly property tax from existing Rs.1,81,690/- to Rs.4,52,540/- with effect from first Half Year of 2018-2019 i.e., from 01.04.2018. This 'notice dated 14.12.2018 bearing reference 8/1/18-19/1184693' shall hereinafter be referred to as 'impugned notice' for the sake of convenience and clarity.

5.Pursuant to the service of impugned notice, detailed objections were sent by the writ petitioner to the Commissioner, Greater Chennai Corporation vide communication dated 31.01.2019.

6. It is not in dispute that the Commissioner has not passed any orders on the objections and made assessment.

7. Be that as it may, in the instant case what is of relevance is an order made by a Hon'ble single Judge of this Court being Order dated 04.02.2019 made in W.P.No.3231 of 2019. Hon'ble single Judge, following an earlier order of Hon'ble

Division Bench in Sanjai Gupta Vs. The Commissioner, Corporation of Chennai reported in 2009 (2) CTC 465, has held that notices of the above nature are provisional notices, objections from assessees have to necessarily be considered and the question of appeal will arise only after final assessment is made.

8. In this view of the matter, the following order is passed:

a) Jurisdictional Regional Deputy Commissioner, Greater Chennai Corporation, shall consider the objections of the writ petitioner dated 31.01.2019 and pass an assessment order in accordance with law after considering all the objections and after giving an opportunity of personal hearing to the writ petitioner or his authorised representative within a period of six weeks from the date of receipt of a copy of this order.

b) The Assessment Order so passed by the jurisdictional Regional Deputy Commissioner shall be communicated to the writ petitioner in a manner known to law under due acknowledgement within seven working days from the date of the order;

c) In the light of the order that has been passed now, there shall be an order of status-quo till final assessment is made and communicated to the writ petitioner subject to the writ petitioner continuing to pay the present Half-Yearly tax of Rs.1,81,690/- without any delay or default. This order of status-quo shall continue until passing of Assessment Order by the jurisdictional Regional Deputy Commissioner in the aforesaid manner. If the order is adverse to the writ petitioner, the order of jurisdictional Regional Deputy Commissioner shall be kept in abeyance for a further period of fortnight to enable the writ petitioner to pursue the statutory remedy available to the writ petitioner.

d) It is made clear that the order of jurisdictional Regional Deputy Commissioner being kept in abeyance, if fully/partly adverse to the writ petitioner, is only for the purpose of writ petitioner to pursue statutory remedy i.e., appeal to the Taxation Appellate Tribunal. It is made clear that this limb of the order is owing to the peculiar facts / circumstances of the case and owing to writ petitioner's stated position that writ petitioner will pursue appellate remedy if final assessment is partly or wholly not satisfactory to writ petitioner. If statutory appellate remedy is resorted to (post final assessment), though obvious it is made clear that all the rules pertaining to statutory appeal will apply.

This writ petition is disposed of with the above directions. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To

1.The Secretary
Municipal Administration and Water Supply Department
Fort St. George
Chennai - 600 009.

2.The Commissioner
Greater Chennai Corporation
Ripon Buildings
Chennai - 600 003.

3.The Assistant Revenue Officer
Zone-1
Greater Chennai Corporation
New No.276, Old No.934
Thiruvotriyur High Road
Thiruvotriyur
Chennai - 600 019.

+1cc to Mr.P.Bagyalakshmi, Advocate Sr.50990
+2cc to Mr.T.C.Gopalakrishnan, Advocate Sr.50511

W.P.No.7142 of 2019 &
W.M.P.No.7867 of 2019

rsi[co]
srg 31/07/2019